

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

<b>OXFORD AVIATION, INC.,</b>	)	
	)	
<b>PLAINTIFF</b>	)	
<b>v.</b>	)	<b>No. 2:08-cv-419-DBH</b>
	)	<b>CONSOLIDATED WITH</b>
<b>CONSTELLATION BRANDS, INC.,</b>	)	<b>No. 2:11-cv-159-DBH AND</b>
<b>ET AL.,</b>	)	<b>No. 2:11-cv-297-DBH</b>
	)	
<b>DEFENDANTS</b>	)	

**REPORT OF PRE-FILING CONFERENCE UNDER LOCAL RULE 56  
HELD ON OCTOBER 5, 2011**

Three summary judgment motions were proposed before the conference:

A. A Constellation motion for summary judgment on liability for Oxford's drilling into the aircraft's pressure vessel (the central dispute centers on whether a Constellation employee was supervising the Oxford employee when the holes were drilled);

B. An Oxford motion on damages seeking a decision that Constellation cannot claim damages for diminution in value of the aircraft because Daubert and its progeny prevent Constellation's expert from testifying on diminution in value (this issue is already partially briefed) and that without an expert, this theory of damages is unavailable to the jury;

C. An Oxford motion for summary judgment for amounts due under the repair contract.

On motion A, in preparation for the conference the lawyers have been able to stipulate a large number of facts, and will file that stipulation

separately. The stipulation and the process of producing it will substantially shorten statements of material fact and simplify the briefing.

On motion *B*, the issues are admissibility of the expert opinion and, if the opinion is not admissible, whether a jury can assess diminution in the aircraft's value without expert testimony.

On motion *C*, counsel is reconsidering whether to file the motion in light of what appear to be factual disputes.

All agreed that oral argument would be helpful on the Daubert issue, but that no evidentiary hearing is required, and that oral argument should be scheduled simultaneously with oral argument on the summary judgment motions.

The motions for summary judgment shall be filed by October 26, 2011. Responses shall be filed by November 29, 2011. Any Replies shall be filed by December 9, 2011. The Clerk's Office shall schedule oral argument for a date thereafter.

**So ORDERED.**

**DATED THIS 11<sup>TH</sup> DAY OF OCTOBER, 2011**

/S/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**